

**MINUTES OF THE REGULARLY SCHEDULED MEETING OF THE PLANNING
COMMISSION
CITY OF MISSION HILLS, KANSAS**

August 13, 2014

The Planning Commission of the City of Mission Hills held a regularly scheduled meeting on August 13, 2014 at 5:00 p.m. at City Hall, 6300 State Line Road, Mission Hills, Kansas.

PRESIDING: Chris Anderson, Chair

PRESENT: Chris Larson, Randy Edge, Sherry Coughlin, Tom Roszak, Debora Field
Casey Halsey

ABSENT: Doug Dalglish, Terry O'Leary

ALSO PRESENT: Jill Clifton, City Planner; Neil Shortlidge, City Attorney; Courtney
Christensen, City Administrator; Sylvya Stevenson, City Intern; Dan
Sullivan, Council Liaison

VISITORS: None Present

The Planning Commission meeting was called to order at 5:00P.M. Mr. Anderson moved to approve the minutes of the July 9th meeting. The Commission noted one typo which Ms. Stevenson stated she would correct. Mr. Anderson moved to approve the minutes as corrected. Mr. Larson seconded, and the minutes were approved 7-0. The Commission reviewed the handout with the changes to the exception language to the 150% guideline. After being asked to define the frontage of the house, Ms. Christensen replied that is the width of the house at the front building line. The Commission discussed the importance of language consistency throughout the entire Design Guidelines. For example, the guidelines currently use both terms 150% rule and 150% guideline. The Commission agreed that because the guidelines are merely guidelines and not an ordinance, the appropriate term would be the "150% guideline," not "rule." Mr. Edge pointed out that the examples given, such as "odd shape lot" and "pie shape," are excluding all other circumstances, and is too specific. Instead, the examples should be broad and welcome exceptions to include all irregular shape lots and other possible circumstances. The Commission agreed that examples provide illustrations, but should also be an effective guide. Several language possibilities were discussed. After listening to all suggestions, Mr. Anderson recommended the wording be: "Adjustments to the 150% guideline are allowable when atypical conditions and special circumstances warrant, such as a smaller lot size relative to neighboring lots, topography, odd lot shapes and similar circumstances, and here are some examples...." The Commission preferred this language over the others. Ms. Christensen identified other pages of the design guidelines where emphasis is placed on exceptions to circumstances and significant scenarios. Mr. Sullivan emphasized that in some cases due to the significance of topography or a peculiar lot size, a home

could potentially be built at or over 150% guideline recommendation depending on the justification of the ARB. Mr. Shortlidge pointed out that the first page of Chapter Two of the Design Guidelines also emphasize that the guidelines are subject to circumstances where exceptions may apply. City staff was asked if the new exception language could be moved to the previous page under “Adjustments and Findings.” Ms. Christensen replied that the changes would be made.

Since the Design Guidelines establish a process independent of the ARB hearing, the content should consist of protective language where the property owner is not making decisions alone. In addition, other protective content was suggested, such as a cover sheet to accompany the Design Guidelines so that residents know to contact City Hall with concerns or questions. Ms. Christensen shared with the Commission that currently, she and Todd Ault, the City Architect have physically looked at some odd shape lots that might lead to an exception that the City can recommend to the ARB prior to the start of the ARB hearing. If there were no other questions regarding updates to the Design Guidelines, and the Commission is in agreement with the revised exception language of the 150% guideline, Mr. Anderson informed the Commission that a motion would need to be made to approve the Design Guidelines with amended language and sent to the Council to be adopted at the September 8th Council meeting. Ms. Field moved to approve the Design Guidelines and the 150% guideline, but with the exception language adopted as amended. Mr. Edge seconded. The Design Guidelines and 150% guideline exception language adopted as amended was approved 7-0. Ms. Christensen replied that the amended exception language and changes to the Design Guidelines will be emailed to everyone next week for review.

Review of Proposed Ordinances with Public Hearing Requests for September

There are three proposed ordinances to amend, and they each will need a Public Hearing Scheduled for the September 10th Planning Commission Meeting. First, is ordinance **5-155 BZA, Meetings and Quorums**. The City ordinance is inconsistent with the BZA Bylaws. The BZA Bylaws provide that a motion passes if a majority of a quorum vote in favor of the motion. Code Section 5-155 requires three affirmative votes to pass a motion regardless of the number of members present at the meeting. The proposed amendment to Section 5-155 makes it consistent with the BZA Bylaws. Mr. Halsey moved to schedule 5-155 BZA, Meetings and Quorums as amended for public hearing. Ms. Field seconded, and the motion was approved 7-0.

The second ordinance is **5-103.84 Retaining Wall**. The Commission was asked to review the proposed ordinance to amend 5-103.84 Retaining Wall. The City would like the language to be precise, so that it may consider circumstances where residents might retain a grade of earth less than the 24 inches. Mr. Christensen pointed out that this proposed amendment would eliminate the gap in the current definition used by the ordinance. Mr. Halsey asked the City if walls were permitted. Ms. Christensen replied that residents cannot have walls in front yards, and would need a variance. Ms. Christensen clarified, and explained that only retaining walls are permitted, and all other walls would need a variance. Mr. Halsey moved to schedule ordinance 5-103.84 Retaining Wall as amended for a public hearing. Ms. Field seconded, and the motion was approved 7-0.

The third ordinance is **5-167 Penalties for Violation and Civil Remedies** of the Zoning Regulations. The Commission reviewed the proposed ordinance to amend 5-167 Penalties for

Violation and Civil Remedies of the Zoning Regulations. Mr. Shortlidge gave a synopsis of the issue and the justification for the amendment. He and staff had eliminated some penalties from the City Code in order to default to a new General Penalty provision that was added to the Code. In the City's effort to address a recent violation of the home occupancy ordinance, which cross-references Section 5-167, it was discovered that Section 5-167 was marked "reserved." Although the City Prosecutor is comfortable proceeding with the violation under the General Penalty provision, the amount of a fine permissible under the General Penalty provision is inconsistent with that authorized by the K.S.A. 12-761, which provides for penalties for violation of the Zoning Regulations and also grants the City the authority to enforce the Zoning Regulations by a civil action.

Ms. Christensen explained that a civil action gives the City the ability to recover cost of damages and repairs resulting from illegal activities conducted at a resident's home that are paid for by the City and taxpayers. So, the proposed ordinance would amend section 5-167 to conform to the penalty provision in K.S. A. 12-761 for violation of the Zoning Regulations. K.S. A. 12-761 also enables the City to enforce the penalty provision through a civil action. For example, if a resident decided to apply support brackets on their house without ARB approval and therefore, without a permit, the contractors who complete the unapproved project would be fined. If the contractors do not pay the fine and/or cost of damages, the City has the authority to file a civil suit in order to collect the fines and costs. Mr. Halsey moved to schedule the ordinance 5-167 Penalty for Violations and Civil Remedies for a public hearing. Mr. Edge seconded, and the motion was approved 7-0.

Subcommittee report regarding the RFP for the Comprehensive Plan consultant.

Ms. Clifton pointed out the slight change to the RFP, and referred the Commission to page 3, the highlighted area. Mr. Anderson asked the Commission to review the draft RFP at home and send comments and concerns to Ms. Clifton. The commission was asked for their opinions on the draft RFP. Ms. Coughlin commented that some things to consider including in the Comprehensive Plan would be gun control, walkability, smoking, Google Fiber and all other utilities. Ms. Christensen responded that the City Government is not authorized to get involved with Gun Control Policy, only businesses. The City prohibits smoking in City Hall but not in the public streets. The Commission agreed that the utilities and new service providers like Google Fiber should be discussed in the Comprehensive Plan. The Commission discussed whether or not the RFP should list the actual issues facing the City. One of the requirements for the RFP candidates is to demonstrate an understanding of the issues facing the City. Mr. Halsey commented that the committee be more specific and list the issues facing the City of Mission Hills, so that an applicant can demonstrate an understanding of the issues. On one hand, some agreed that a list of the issues or challenges faced by the City, such as preserving green space should be shared with the candidates so that they can adequately prepare for the selection process. On the other hand, some discussed that applicants should not have a list, but, rather research the issues of the City and the community themselves. Ms. Field and Ms. Christensen suggested that under the selection process, it should read as follows: "Demonstrate your understanding of the following topics or possible topics that should be addressed...."

Mr. Anderson commented that the Comprehensive Plan should be a road map to a 50 year vision of the City. Mr. Edge asked for clarification on whether the Comprehensive Plan will be a rewrite or refresh. After much discussion to why the plan should be rewritten, the Commission suggested that revision and revise be removed from the RFP. Instead, the RFP should indicate that the Comprehensive Plan will be a new plan that projects the next 50 years of the City of Mission Hills. The RFP will indicate that staff will provide the consultant with City data and update the history of Mission Hills in chapters 1 through 4. Mr. Sullivan suggested that the plan also include the state statute that mandates the annual review of the Comprehensive Plan, development trends, such as in transitioning neighborhoods and unique building guidelines. Mr. Edge suggested there be a list outlining the state requirements of the Comprehensive Plan for the hiring consultant to review. The Commission agreed to keep September 2, 2014 as the scheduled date to post the RFP. Mr. Halsey moved to adopt the RFP as amended. Mr. Edge seconded, and the RFP was approved 7-0.

Ms. Stevenson announced that October 8th was the correct October Planning Commission meeting date. The October Council meeting will be held on October 13, 2014. The City emphasized that the Comprehensive Plan will be a collaborative process between the Planning Commission and the consultant. Mr. Anderson brought to the Commission's attention information regarding scheduled story poles visits. Mr. Leffel is not present today but asked Mr. Anderson to share this information. On August 19th two new houses, 2909 Tomahawk Road and 2516 W. 63rd Street will have story pole visits at 2:00 P.M. The story pole visit for the new house at 59th and High Drive has been rescheduled to September 30th. Mr. Sullivan shared with the Commission Mr. Leffel's email of concerns that was presented at the 2015 Council Budget Hearing on Monday, August 11, 2014. Mr. Leffel's email also identified information to consider with regard to development of the Comprehensive Plan (Appendix A).

Conclusion

- The Design Guidelines and the exception language to the 150% guideline, was adopted as amended and sent to the Council for consideration at the September 8th meeting.
- Ordinance 5-155 BZA, Meetings and Quorums, as amended, was scheduled for a public hearing on September 10th.
- Ordinance 5-103.84 Retaining Wall, as amended, was scheduled for a public hearing September 10th.
- Ordinance 5-167 Penalty for Violations and Civil Remedies, as amended, was scheduled for a public hearing September 10th.
- The Commission agreed to keep September 2, 2014 as the scheduled date to post the RFP.
- The RFP for a Comprehensive Plan Consultant was adopted as amended.

The meeting was adjourned at 6:21P.M.

Sylvya Stevenson, Intern